IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY SECOND DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 14303 of 2004

Between:

1 S. Anil Kumar, s/o S. Narayanaswamy, Seshasai Telelinks,
Kothapeta, Dharmavaram, Ananthapur District.
2 V. Rajendra Kumar, s/o Siddaiah, c/o Krisdhna Sai,
Besides, MLA House, Aravinda Nagar, Ananthapur.

..... PETITIONERS

AND

1 G.Radhika, d/o late Sanjeevaiah, 30/413, Kothapeta,
Dharmavaram, Ananthapur District.
2 The Senior Divisional Commercial Railway Manager, Guntakal,
Ananthapur District.
3 The Divisional Railway Manager, Guntakal Division, Guntakal.
4 The General Manager, B.S.N.L., O/o the General Manager,
Head Post Office, Ananthapur.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction, more particularly one in the nature of writ of mandamus declaring the action of the 2nd respondent in allotting the space to install telephone booth in Plat Form No.2 at Dharmavaram Railway Station Vide proceedings G/C14/STD Booth/PF No.2/DMM dt.18-11-2003 to the 1st respondent is illegal, arbitrary and in violative of Article 14 and 21 of the Constitution of India and consequently direct the 2nd and 3rd respondent either to allot the space to the eligible persons among the participants or to issue a fresh tender notification.

For the Petitioners: MR.S.D.GOUD, Advocate

For the Respondent No.1: --

For the Respondent Nos.2 and 3: MR. N. PARAMESWARA REDDY, SC FOR RAILWAYS

For the Respondent No.4: MR. A. RAJASEKHARA REDDY, SC for CG

The Court made the following :

ORDER:

Heard the learned counsel for the petitioners and the learned Standing Counsel for Railways appearing for respondent Nos.2 and 3.

The petitioners claim to have participated, along with the first respondent and two other members, in the auction that was conducted in pursuance of the tender notification, dated 22-4-2003, issued by the third respondent for the contract of installing STD/ISD/FAX/Internet booth on platform No.2 at Dharmavaram Railway Station. They state that as per the conditions of tender notice one should not be below the age of 18 years to participate in the auction. Their grievance is that though the first respondent, whose date birth is 15-6-1987, was under aged by the date of the tender notification, the second respondent by order dated 18-11-2003 allotted the contract in favour of the first respondent, which is illegal and arbitrary, and though the second petitioner made a complaint bringing the said fact to the notice of the second respondent and seeking necessary action in the matter, the second respondent by proceedings dated
11-5-2004 rejected the complaint. Therefore, seeking a direction to respondent Nos.2 and 3 either to allot the contract to the eligible persons among the participants or to issue a fresh tender notification, the petitioners filed this writ petition.

Respondent Nos.2 and 3 filed counter-affidavit denying the allegations made in the affidavit filed in support of the writ petition. It is stated that the first respondent as physically handicapped person applied for allotment of STD booth on platform No.2 at Dharmavaram Railway Station, in pursuance of the tender notification issued by the third respondent, and produced medical certificate issued by M.S. (Ortho), Government General Hospital, Anantapur, wherein her age was mentioned as 18 years as on 15-05-2003. She also submitted Primary School Certificate, wherein her date of birth was shown as 22-3-1985. It is stated that to the complaint given by the second petitioner, the second respondent gave reply stating that the STD/ISD booth contract was allotted to the first respondent as per the procedure in vogue. It is stated that on the scrutiny of the certificates submitted by the first respondent, she stood highest among all other participants, hence she was allotted

the STD booth and there are no irregularities in the allotment. It is submitted that the second petitioner submitted bogus police verification certificates at the time of making applications seeking for allotment of STD booths at Yerraguntla Railway Station and Dharmavaram Railway Station. Thus, respondent Nos.2 and 3 pray to dismiss the writ petition.

The learned counsel for the petitioners produced date of birth certificate of the first respondent said to have been issued by Head Mistress, Maatha E.M. School, Ram Nagar, Dharmavaram on 20-04-2004, wherein her date of birth was noted as 15-06-1987. On the other hand, the learned Standing Counsel for Railways produced a record sheet of the first respondent said to have been issued by the Head Master, Municipal Elementary School, Ward Nos.30 and 31 of Dharmavaram, Ananthapur District, wherein the date of birth of the first respondent is recorded as 22-03-1985.

Admittedly, the date of birth certificate produced by the learned counsel for the petitioners was issued by a private school, whereas the record sheet which contains the date of birth of the first respondent, produced by the learned Standing Counsel for Railways, was issued by a Municipal Elementary School, and in the tender form said to have been submitted by the first respondent, her date of birth was noted as
22-03-1985. Having regard to the fact that the date of birth of the first respondent as per the Municipal Elementary School record is 22-03-1985, and since her date of birth as noted in the said school record is taken as the basis for ascertaining her age by 22-4-2003 i.e. the date of tender notification said to have been issued by the second respondent for the contract in question, the contention of the petitioners that the first respondent was below 18 years of age by the date of issuance of tender notification, and the action of the second respondent in awarding the contract in favour of the first respondent who is ineligible for such contract on account of her underage, as being illegal and arbitrary, cannot be sustained.

In the above view of the matter, the writ petition has no merit and the same is accordingly dismissed. No costs.

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N.V. RAMANA, J

Date: 22-02-2005

Svv

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Senior Divisional Commercial Railway Manager, Guntakal, Ananthapur District.
2 The Divisional Railway Manager, Guntakal Division, Guntakal.
3 The General Manager, B.S.N.L., O/o the General Manager, Head Post Office, Ananthapur.

4 Two CD copies.

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